

allegedly being unpatentable over Wurznier et al. (Complement Inflamm., 1991; 1449, # 20) in view Couser et al. (J. Am. Soc. Nephrol., 1991; 1449, #5) and Sims et al. (U.S. Patent No. 5,135,916; 1449, #1). Applicants respectfully traverse these rejections and request that the Examiner reconsider and withdraw them.

In order to expedite the prosecution of this application, and in order to put the application in better condition for allowance or appeal, should an appeal be necessary, applicants have hereby added Claim 10, which is drawn to the use of C5-specific antibodies to inhibit complement in the treatment of pre-existing glomerulonephritis. Support for this new claim can be found in Claim 1 and in applicants' specification at page 23, lines 22-25. In addition to their previous arguments, applicants believe that the following discussion demonstrates that the teachings of the cited references cannot properly be held to render their claimed invention obvious under § 103.

There is no teaching in the Wurznier et al. reference supporting the Examiner's contention that "it was apparent one of ordinary skill in the [art] would have had a reasonable expectation of success in producing the claimed invention." Even if the Wurznier et al. reference is read to suggest that the anti-complement antibodies disclosed therein could be used for clinical prophylaxis of glomerulonephritis (a reading which applicants believe is

not supported by the disclosure of that reference), such a teaching would not render Claim 10 obvious. The disclosure in this reference that "the biological consequences of C5a and TCC generation can be circumvented by these mabs" cannot lead to obviousness because it was not known that the circumvention of the biological consequences of C5a and TCC generation would have beneficial effects upon established glomerulonephritis. In fact, the only mention of this inflammatory condition by Wurzner et al. is in reference to studies showing that animals suffering from congenital deficiencies in either C5 or C6 (i.e., animals that never had any C5 or C6 activity to begin with) were less prone to develop experimentally induced glomerulonephritis than animals that had normal complement activity.

To make clear the reason for impropriety of any such reading of the Wurzner et al. disclosure with regard to Claim 10, one has only to consider another (more familiar) inflammatory condition, sunburn. The effects of overexposure to the sun can readily be circumvented by the prophylactic use of a sunscreen agent, yet it would not be logical to assert that circumventing the biological effects of exposure to the sun (by blocking the UV components of sunlight) would provide a reasonable expectation of success in treating a pre-existing sunburn. Of course, the knowledge in the art regarding the possible role of complement in initiating kidney disease would no more suggest that pre-existing disease could be successfully

treated with anti-complement antibodies than would the knowledge that sunburn is initiated by exposure to sunlight suggest that a pre-existing sunburn could be successfully treated with a sunscreen agent.

The Couser et al and Sims et al references cited by the Examiner do not make up for the deficiencies in the Wurznier et al. disclosure discussed above.

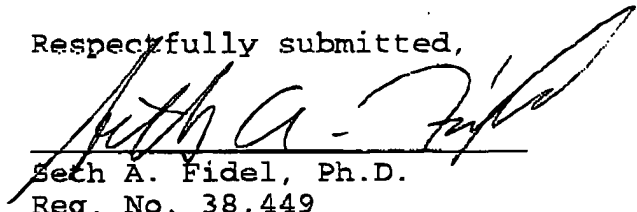
In sum, applicants believe that their claims fully satisfy the requirements of section 103 of the Patent Statute. Applicants therefore respectfully request that the Examiner reconsider and withdraw his rejections under §103.

III. Conclusion

In view of the foregoing, applicants respectfully submit that the above amendment puts their application in better condition for allowance or appeal, should an appeal be necessary, and respectfully request the entry of this amendment. Reconsideration and the issuance of a notice of allowance for this application are earnestly solicited.

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Respectfully submitted,


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